

O

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MR. IVAN L. MENDEZ,	)	Case No. CV 11-7758-JFW (DTB)
Plaintiff,	)	
vs.	)	ORDER SUMMARILY DISMISSING
	)	ACTION
THE CONNECTED WIRED	)	
MEMBERS, et al.,	)	
Defendants.	)	

Plaintiff, a prisoner currently incarcerated at the James T. Vaughn Correctional Center located in Smyrna, Delaware, lodged for filing a pro se complaint herein on September 20, 2011. On September 21, 2011, plaintiff filed an inmate trust account statement. On September 28, 2011, the Court granted plaintiff leave to proceed in forma pauperis. Plaintiff's Complaint was filed in this action on September 28, 2011. Even though plaintiff's Complaint was submitted on the approved Central District Civil Rights Complaint form, plaintiff did not provide the Court with his previous federal lawsuit history. In accordance with the terms of the "Prison Litigation Reform Act of 1995," the Court screened the Complaint prior to ordering service, for purposes of determining whether the action was frivolous or malicious; or failed to state a claim on which relief might be granted; or sought monetary relief against a defendant who

1 was immune from such relief. See 28 U.S.C. §§ 1915(e)(2), 1915A(b). On October  
2 3, 2011, the Court dismissed the Complaint with leave to Amend. Plaintiff's First  
3 Amended Complaint was due on or before November 3, 2011. Plaintiff failed to file  
4 his First Amended Complaint within the allotted time, nor did he request an extension  
5 of time within which to do so. On December 13, 2011, the Court issued an Order to  
6 Show Cause ordering plaintiff to show cause as to why the Court should not order the  
7 action dismissed due to his failure to timely file his First Amended Complaint.  
8 Plaintiff failed to timely file a response to the Order to Show Cause, and did not  
9 request an extension of time within which to do so.

10 However, on December 12, 2011, in Case No. CV11-4934-JFW (DTB), which  
11 is also pending before this Court,<sup>1</sup> plaintiff filed a document entitled "Notice of  
12 Filing" wherein he attached correspondence and docket sheets referencing seven cases  
13 he had previously filed in other various United States District Courts, including the  
14 Districts of Utah, Iowa, Arizona, Idaho, Alaska, South Dakota and Texas.

15 Pursuant to the Prison Litigation Reform Act, a prisoner shall not be authorized  
16 pursuant to 28 U.S.C. § 1915(a)(1) to commence an action or proceeding without  
17 payment of the full filing fee if such prisoner "has, on 3 or more prior occasions, while  
18 incarcerated or detained in any facility, brought an action . . . that  
19 was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim  
20 upon which relief may be granted." 28 U.S.C. § 1915(g).

21 Thereafter, on December 27, 2011, the Court issued an Order to Show Cause  
22 ("OSC") ordering plaintiff to show cause as to why the order granting him in forma  
23 pauperis status in this matter should not be vacated, and that the action be dismissed  
24 without prejudice pending payment of the full filing fee of \$350.00, in light of the  
25 information regarding plaintiff's prior "strikes" under 28 U.S.C. § 1915(g).

---

26  
27 <sup>1</sup> Plaintiff currently has 9 cases pending in this District, and in each  
28 case, plaintiff states his inmate identification number as 453351.

1       The Court informed plaintiff in the OSC that it had ascertained that plaintiff had  
2 previously filed numerous federal lawsuits in a variety of federal judicial districts, and  
3 that, in at least five (5) of these prior cases, courts had dismissed plaintiff's actions on  
4 the grounds that the complaints were frivolous, malicious, or failed to state a claim  
5 upon which relief may be granted. Specifically, the Court noted the following: (1) In  
6 Mendez v. United States Justice System, 04-CV-898-JJF (D. Del. March 30, 2005  
7 Order) the action was dismissed after the court found that the complaint was frivolous;  
8 (2) in Mendez v. James T. Vaughn Correctional Center, 05-CV-303-JJF (D. Del., Dec.  
9 1, 2005 Order) the action was dismissed after the court found plaintiff could not state  
10 a claim and noted that plaintiff's allegations were "vague, unspecified and rise to the  
11 level of the wholly irrational"; (3) in Mendez v. Delaware Legal System, 05-CV- 304-  
12 JJF (D. Del., Dec. 1, 2005 Order) the court dismissed the action after finding plaintiff  
13 could not state a claim and noted that "plaintiff's allegations are nonsensical"; (4) in  
14 Mendez v. Delaware State, 05-CV-305-JFF (D. Del., Dec. 1, 2005 Order) the court  
15 dismissed the action after finding plaintiff could not state a claim; and (5) in Mendez  
16 v. Delaware Psychiatric Center, 05-CV-306-JJF (D. Del., Dec. 1, 2005 Order) the  
17 court dismissed the action after finding that plaintiff could not state a claim. See also  
18 Mendez v. Kemp, 08-CV-443-JJF (D. Del. July 30, 2009 Order) (citing four of  
19 plaintiff's previous cases as strikes pursuant to 28 U.S.C. § 1915(g) and dismissing  
20 case pursuant to § 1915(g)); see also Mendez v. One of the Connected Wired  
21 Members of this Criminal Organization, 10- CV-142-JP (E.D. Pa. Jan. 22, 2010  
22 Order) (same). In each of the cases cited herein, plaintiff alleged that he was  
23 incarcerated at the time the action was filed. The Court attached as exhibits to the  
24 OSC copies of the orders of dismissals from each of the above-referenced cases.

25       On January 24, 2012 plaintiff filed his Response to the OSC. The Response  
26 was virtually impossible to decipher, and essentially failed to address the facts raised  
27 by the Court in the OSC. For example, plaintiff stated "I don't have anymore copies  
28 of these wrotten [sic] mind and brain washings . . . and I have requested them back


1 too, . . . for [sic] soon as I have paper and envelopes I will [sic] going to request the  
2 recorded video tapes.” (Response at 1.) Plaintiff attached to his Response the Court’s  
3 OSC along with the exhibits thereto showing the five prior cases which were  
4 dismissed pursuant to 28 U.S.C. § 1915(g).

5 The Court, after reviewing plaintiff’s Response, found that plaintiff had failed  
6 to show cause as to why his in forma pauperis status in this matter should not be  
7 revoked pursuant to §1915(g), as plaintiff has had, on at least five prior occasions,  
8 while incarcerated, brought an action that was dismissed on the grounds that it was  
9 frivolous or because it failed to state a claim upon which relief could be granted.  
10 Accordingly, in an order dated February 1, 2012, the Chief District Judge revoked  
11 plaintiff’s in forma pauperis status, and ordered him to pay the full filing fee of  
12 \$350.00 on or before February 10, 2012. Plaintiff was admonished that his failure to  
13 pay the full \$350.00 filing fee by February 10, 2012, could result in this action being  
14 dismissed without prejudice pending payment of the full filing fee.

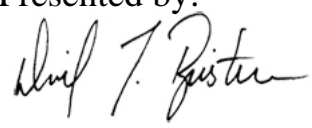
15 As plaintiff has failed to pay the full filing fee of \$350.00, within the time  
16 allotted, the Court hereby DISMISSES this action, without prejudice, pending  
17 payment of the full filing fee.

18 LET JUDGMENT BE ENTERED ACCORDINGLY.

19  
20 DATED: March 5, 2012

  
JOHN F. WALTER  
UNITED STATES DISTRICT JUDGE

21  
22  
23 Presented by:

24   
25  
26 David T. Bristow  
27 United States Magistrate Judge  
28